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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,537	12/30/2003	Brian R. Trego	087522-785-329	8563
28104	7590	11/04/2005	EXAMINER	
JONES DAY			EDELL, JOSEPH F	
77 WEST WACKER			ART UNIT	
CHICAGO, IL 60601-1692			PAPER NUMBER	

3636

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/748,537	Applicant(s) TREGO ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 24-29, 31-33 and 37-44 is/are pending in the application.
- 4a) Of the above claim(s) 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-18, 21, 22, 24-29 and 37-39 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 19, 20, 31-33, 40-43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 44 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The original invention and the newly submitted claim 44 are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product of the armrest assembly may be made by the materially different process of mounting springs to first and second fasteners, aligning the first slide structure with a mounting member, and inserting the first and second fasteners and the mounted springs through the first slot and into fastener receiving openings.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 44 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8-18, 21, 22, 24-29, and 37-39 are rejected under 35 U.S.C. 102(b) as being anticipated by EP Patent No. 0 958 765 A2 to Feldotto.

Feldotto discloses an armrest assembly that includes all the limitation recited in claims 1-5, 8-18, 21, 22, 24-29, and 37-39. Feldotto shows an armrest assembly having a mounting member 2 (Fig. 3) connected to a chair and including an upper base 5 (Fig. 2), a first horizontal slide element 30 (Fig. 3) slidably mounted to the upper base such that the first slide element being adjustably slidable in a first direction with respect to the upper base and restrained after adjustment with respect to the upper base by frictional engagement between the upper base and the upper base and the first slide element, a second horizontal slide element 10 (Fig. 3) *capable* of slidably mounting to the first slide element and slidable in a second direction perpendicular to the first direction and restrained after adjustment with respect to the first slide element by frictional engagement between the second slide element and the first slide element, a slot 33 (Fig. 3) formed in the first slide element that is directed along the first direction, at least one fastener receiving opening (Fig. 3) in the upper base, at least one fastener 15.1, 15.2 (Fig. 3) received in the slot and in the fastener receiving opening, a guide 8, 9 (Fig. 3) *capable* of directing sliding movement of the first slide element with respect to the upper base, at least one first projection (Fig. 3) of the guide extending upwardly from the upper base and engaging at least one first recess (Fig. 3) formed in the first slide element, at least one second projection 31 (Fig. 3) on an upper surface of the first

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slide element engageable with at least one second recess 11 (Fig. 3) formed in a lower surface of the second slide element, a second slot (Fig. 3) in the second slide element that is disposed in the second direction, a fastener 38 (Fig. 3) disposed through the second slot and received by the first slide element, and an armrest cover 20 (Fig. 3).

Allowable Subject Matter

4. Claims 6, 7, 19, 20, 31-33, and 40-43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 09 August 2005 have been fully considered but they are not persuasive. While Feldotto teaches that the first horizontal slide 30 is locked in position by the latch lying in the rib 32, the peg 9 is in frictional engagement in the interior of the slot 33. This frictional engagement guides the movement of the first horizontal slide relative to the upper base and restrains adjustment therebetween. This frictional engagement may not be the primary mechanism by which the first slide element is restrained, but does contribute to the restraint upon sliding in the first direction. Similarly, the lower planar surface of the first horizontal slide contacts the upper surface of the second horizontal slide element. This contact is a frictional engagement restraining adjustment between the two elements. Moreover, the pin 38 of

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the second horizontal slide element frictional engages the interior area of a selected detent 34 to restrain adjustment between the two elements.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JE
October 30, 2005


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600